

ORDINANCE NO.

An ordinance of the City of Gainesville, Florida, amending the Code of Ordinances by creating Division 6, titled “Food Waste”; requiring commercially collected residential properties to establish a food waste collection program; requiring registrations for food waste collectors; requiring commercial establishments to collect food waste and provide food waste containers; providing for an appeal process for revocation of food waste collection registrations; providing for civil citations; providing directions to the codifier; providing a severability clause; providing a repealing clause; and providing an effective date and an enforcement date.

WHEREAS, the City Commission finds that this Ordinance is necessary to achieve waste reduction goals of the city by ensuring maximum processing of food waste; and

WHEREAS, the City Commission finds that this Ordinance will improve and encourage collection of food waste materials at commercially collected residential properties by requiring commercially collected residential properties to provide information regarding food waste collection and make food waste separation and disposal convenient for occupants; and

WHEREAS, the City Commission finds that this Ordinance will encourage the public to dispose of food waste at commercial establishments by requiring commercial establishments to place additional food waste collection containers next to garbage containers; and

WHEREAS, the City Commission finds that this Ordinance will achieve food waste reduction goals by requiring commercial establishments to collect food waste and ensure it is collected by a food waste processor; and

WHEREAS, the City Commission finds that this Ordinance will promote food waste collection by requiring property owners to provide adequate space for commercial tenants to dispose of food waste; and

31 **WHEREAS**, in order to regulate the collection of food waste, this Ordinance will require
32 entities that wish to collect, transport, or process food waste to have a registration; and

33 **WHEREAS**, the goal of the City Commission is to provide curbside food waste
34 collection for residential properties by January 1, 2023; and

35 **WHEREAS**, the City Commission encourages the development of food waste processing
36 facilities to meet the future need for additional composting created within the City; and

37 **WHEREAS**, at least ten (10) days' notice has been given once by publication in a
38 newspaper of general circulation notifying the public of this proposed ordinance and of public
39 hearings in the City Hall Auditorium located on the first floor of City Hall in the City of
40 Gainesville; and

41 **WHEREAS**, public hearings were held pursuant to the notice described above at which
42 hearings the parties in interest and all others had an opportunity to be and were, in fact, heard.

43 **NOW, THEREFORE, BE IT ORDAINED BY THE CITY COMMISSION OF THE**
44 **CITY OF GAINESVILLE, FLORIDA:**

45 **Section 1.** The Code of Ordinances of Gainesville, Florida is hereby amended by
46 adding a Division 6 within Article III of Chapter 27, which section reads as follows. Except as
47 amended herein, the remainder of Chapter 27 remains in full force and effect.

48 **DIVISION 6. – FOOD WASTE**

49
50 **Sec. 27-95 - Registration of food waste collectors.**

51 (a) Registration required. No person, including a commercial franchisee, shall collect,
52 transport, convey or process food waste intended for industrial uses or composting in the city for
53 hire, remuneration, or other consideration without a registration certificate from the city. Each
54 commercial franchise holder who desires to collect food waste in the city intended for industrial

55 uses or composting shall be granted a food waste registration certificate upon completing an
56 application and providing the necessary documentation. No application fee will be required for
57 renewals of existing registration certificates. This subsection does not prohibit the city from
58 entering into an exclusive franchise agreement or issuing exclusive certificates of registration for
59 the collection of food waste materials from residential or commercially serviced properties.

60 (b) Application for a Food Waste Collector Registration.

61 (1) Applications for registration shall be obtained from and returned to the solid
62 waste division.

63 (2) The applicant shall:

- 64 a. state whether it is a processor, a transporter, or both;
65 a. provide a list of facilities where material will be delivered;
66 b. provide disclosure of ownership as set forth below; and
67 c. provide proof of insurance as set forth below.

68 (c) Renewal of registration. The certificate of registration shall be valid for one year.

69 (d) Operating requirements for food waste registrants. Persons collecting, transporting,
70 conveying food waste in the city shall comply with the following operating requirements:

71 (1) Delivery to food waste processing facility. All food waste shall be delivered to a
72 food waste processing facility. Within 15 days of changing facilities where food
73 waste is being delivered, food waste registrants shall provide the name and location
74 of the new facilities to the city manager or designee.

75 (2) Disclosure of ownership. Each registrant shall annually provide two copies of a
76 notarized statement disclosing the names of its owners, general and limited partners,

77 and corporate or registered name under which it will conduct its business as
78 authorized by this article.

79 (3) *Response to complaints.* Each registrant shall be responsible for responding to
80 any and all complaints which involve registrant's actions that create a nuisance or
81 have the potential to create a nuisance. Response shall be within 24 hours of the
82 complaint, or by 5 p.m. Monday if the complaint was received during a weekend.

83 (4) *Clean-up.* A registrant shall handle food waste containers with reasonable care
84 and return them to the approximate location from which they were collected. A
85 registrant shall clean up all materials spilled during its collection operation.

86 (5) *Emergencies.* A registrant shall not be required to provide collection services
87 when all appropriate food waste collection sites are closed or a city emergency or
88 imminent emergency exists, as determined by the city manager or designee.
89 Collections shall resume on the instruction of the city manager or designee.

90 (6) *Non-agency.* A registrant shall not be deemed an agent of the city and shall be
91 responsible for any losses or damages of any kind arising from its performance or
92 nonperformance under its registration. The registrant shall defend at its own expense
93 or reimburse the city for its defense, at the city's option, of any and all claims and
94 suits brought against the city, its elected or appointed officers, employees, and
95 agents resulting from the registrant's performance or nonperformance of service
96 pursuant to the registration.

97 (7) *Trucks.* A registrant shall use trucks that are capable of preventing spillage or
98 accidental release of food waste during transport.

99 (8) Insurance. A registrant shall purchase and maintain the types and amounts of
100 insurance set forth below from companies authorized to do business in the State of
101 Florida. Failure to maintain insurance shall result in revocation of registration.

102 a. General liability insurance - \$500,000.00 per occurrence if the registrant
103 utilizes city facilities.

104 b. Commercial motor vehicle insurance as required by F.S. Ch. 627.

105 c. Workers compensation as required by F.S. Ch. 440.

106 (9) Other laws, rules and regulations. A registrant shall procure at its own expense
107 all local, state and federal franchises, certificates, permits or other authorizations
108 necessary for the conduct of its food waste operations. A registrant and its
109 employees, officers and agents shall comply with all relevant local, state, and
110 federal laws, rules and regulations, orders and mandatory guidelines applying to the
111 collection or processing services being rendered.

112 (10) Effect of certificate. Issuance of a registration certificate by the city shall not be
113 deemed to be a waiver of any applicable local, state or federal law or regulation,
114 including but not limited to zoning or planning regulations, with respect to a food
115 waste operation of any kind, nor shall it create any vested right to own or operate
116 any type of food waste operation.

117 (11) Hours of operation. A registrant shall make available daily collection of food
118 waste. Collection shall begin no earlier than 6:00 a.m. and shall cease no later than
119 9:00 p.m. Monday through Saturday, except in areas of mixed residential and
120 commercial occupancy where collections shall begin no earlier than 7:00 a.m. and

121 shall cease no later than 9:00 p.m. Monday through Saturday. Sunday service shall
122 not begin before 8:00 am and cease no later than 9:00 p.m.

123 (e) Separation of residential and commercial materials. Curbside collection of food
124 waste from commercial generators shall be allowed only with prior approval of the city
125 manager or designee. When considering a request to provide curbside collection, the
126 city manager or designee shall consider the following factors:

127 (1) Accessibility of collection vehicles to property.

128 (2) Available space for placement of containers.

129 (3) Predominant use of property.

130 (4) Safety.

131 (f) Reports. The food waste registrants shall submit to the city manager or designee
132 reports, which shall include data as to number of customers, volume of food waste
133 collected, collection sites, and volume of food waste delivered to collection sites.

134 **Sec. 27-95.1. - Revocation of food waste collector registration.**

135 (a) Upon a finding of just cause, the public works director or designee shall deny a food waste
136 collector registration in the case of application for a new or renewed registration, or suspend
137 or revoke a registration for a specified period of time in the case of previously issued
138 registration. Just cause shall be consistent and repeated violation of state or local laws,
139 ordinances, rules, and regulations relating to the applicant's or registrant's operation; or loss
140 of any required state certification as a food waste collector, transporter, or processor.

141 (b) Prior to denial, suspension or revocation, the applicant or registrant shall be given
142 reasonable notice of the proposed action to be taken and shall have an opportunity to present
143 to the public works director or designee written and oral evidence at a hearing as to why the

144 registration should not be denied, revoked or suspended. The notice of the proposed action
145 shall be served upon the applicant or registrant by registered mail or personal service. The
146 hearing shall be held no earlier than 10 days after notice is received by the registrant.
147 Notice of the final decision of the public works director or designee shall be sent in writing
148 to the registrant.

149 (c) Any applicant or registrant whose registration is denied, suspended or revoked by the public
150 works director or designee may appeal the decision to the city manager. The appeal shall be
151 taken by filing written notice thereof, in duplicate, with the city clerk within ten days after
152 the decision of the public works director or designee. The city clerk shall inform the public
153 works director of the appeal, and the public works director or designee shall forthwith
154 transmit to the city clerk copies of all papers constituting the record upon which the action
155 appealed is based. No later than 15 days after filing the appeal, the city manager shall
156 review the record and decide whether the decision of the public works director was based on
157 competent, substantial evidence. If the city manager finds competent, substantial evidence
158 for the public works director's decision, the city manager will uphold the public works
159 director's decision; otherwise, the city manager will reverse the public works director's
160 decision. The decision of the city manager shall constitute final administrative action.

161 **Sec. 27-95.2 – Mandatory commercial food waste collection established.**

162 (a) Commercially-collected residential property food waste collection.

163 (1) All commercially-collected residential serviced property owners/developers and their
164 affiliated entities, including but not limited to landlords, management companies,
165 condominium associations, and home owner associations shall, by June 1, 2024,
166 establish a food waste collection program that:

167 (a) includes collection and diversion of food waste from the waste stream. A
168 commercially-collected residential property shall, upon request of the city manager
169 director or designee, produce proof of a valid and current contract with a food
170 waste registrant or receipts for collection and delivery of food waste materials to a
171 food waste processing facility, unless the commercially-collected residential
172 property is granted an exemption;

173 (b) provides an industry standard food waste container in a common area on the
174 property that is as convenient and accessible to the residents as garbage and
175 recycling collection containers. If the city manager or designee determines the
176 location of food waste containers fails to meet this requirement, the city manager
177 or designee shall determine an appropriate location on the property for the food
178 waste containers;

179 (c) provides an adequate level of service and capacity of food waste collection
180 containers based on the number of residents, units, or generation at the given
181 property. If the city manager or designee determines the level of service and
182 capacity of food waste containers is inadequate, the city manager or designee shall
183 determine an appropriate level of service and capacity of food waste containers;

184 (d) prominently posts and maintains one or more signs in common areas where food
185 waste is collected that specify the materials accepted as food waste;

186 (e) distributes food waste collection information in printed or electronic form to each
187 occupant or unit on the property a) upon commencement of the tenant's lease or
188 unit sale, b) at least once annually, and c) within fourteen (14) days after any
189 changes to food waste services on the property; and

190 (f) at such time as when food waste services are made available at property, provides
191 at least one indoor food waste storage container per unit of a type and design
192 approved by the city for occupants who rent the unit to easily transport food waste
193 to the collection area on the property. If the occupant owns the unit, the owner of
194 the unit shall supply their own indoor food waste storage container.

195 (2) Exemptions. A commercially-collected residential property may request an exemption
196 request from the requirements of section 27.95.2(a). The city manager or designee
197 shall grant a request for an exemption if the commercially-collected residential
198 property demonstrates to the satisfaction of the city manager or designee that space is
199 not available at a given property for additional container placement or provide proof
200 that the commercially-collected residential property is unable to comply due to lack of
201 available service providers. An exemption request must be completed and submitted
202 every 6 months using forms provided by the city. The commercially-collected
203 residential property shall be notified in writing within sixty (60) days of whether its
204 exemption request is granted or denied.

205 (b) Requirement for commercial establishments to collect food waste. By June 1, 2023,
206 commercial establishments that dispose of one cubic yard of food waste or more per week
207 shall collect food waste in containers that are separate from garbage and recovered materials.
208 By June 1, 2026 all commercial establishments shall collect food waste in containers that are
209 separate from garbage and recovered materials unless the amount of food waste generated by
210 the establishment is de minimus. The commercial establishment shall make food waste in
211 the receptacles available for processing. A commercial establishment shall, upon request of
212 the city manager director or designee, either provide receipts for delivery of food waste to a

213 food waste processing facility or produce proof of a valid and current contract with a food
214 waste registrant.

215 (c) Maintenance of containers. If a registrant provides food waste containers to its customers, the
216 registrant will be responsible for the proper maintenance of the container. Customers that
217 acquire their own containers from any other source are responsible for the proper
218 maintenance of the container, except that damage done by the registrant shall be the
219 responsibility of the registrant; and for ensuring that the container can be serviced by the
220 registrant's equipment. Any customer or registrant violating this paragraph shall be subject
221 to a civil citation as provided in chapter 2, article V, division 6.

222 (d) Location of containers. All food waste shall be placed in an appropriate industry standard
223 container. Where carts are used, they shall be placed at such collection point(s) as may be
224 agreed to between the registrant and the customer. All containers shall be kept in a safe,
225 accessible location as designated or approved by the city and agreed to by the registrant and
226 customer.

227 (1) Any commercial establishment providing receptacles for collecting and disposing of
228 garbage and recycling to the public shall provide an equal number of collection
229 receptacles for food waste paired next to the garbage and recycling receptacles. If the
230 commercial establishment is unable to meet the above requirement, the commercial
231 establishment shall work with the city to develop an acceptable alternative plan for the
232 placement of collection receptacles for food waste on the premises.

233 (2) Property owners shall provide commercial establishment tenants with space for
234 commercial service containers for food waste collection or make reasonable
235 accommodations for shared commercial service containers for food waste collection in

236 a convenient and nearby location. If the property owner is unable to meet the above
237 requirement, the property owner shall work with the city to develop an acceptable
238 alternative plan for the collection of food waste from the tenant.

239 **Sec. 27-95.3. Residential and commercially-collected residential food waste collection.**

240 Food waste collection for residential and commercially-collected residential customers shall be
241 phased in gradually beginning January 1, 2023 and made available to all residential and
242 commercially-collected residential customers by January 1, 2025.

243 **Sec. 27-95.4. - Penalties for violation.**

244 The city shall enforce violations of sections 27-95, 27-95.1, and 27-95.2 through code
245 enforcement proceedings, by section 1-9 of this Code of Ordinances, or seek injunctive relief,
246 unless specifically stated otherwise.

247 **Section 2.** Section 2-339 of the Code of Ordinances of Gainesville, Florida, is amended as
248 set forth below. Except as herein amended, the remainder of Section 2-339 remains in full force
249 and effect.

250 **Sec. 2-339. – Applicable codes and ordinances.**

251 The following ordinances are enforceable by the procedures described in this division:

<u>Division 6,</u> <u>Article III of</u> <u>Chapter 27</u>	<u>Maintenance of food waste containers</u>	<u>II</u>	<u>\$250.00</u>
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253 **Section 3.** It is the intention of the City Commission that the provisions of Sections 1
254 and 2 of this Ordinance shall become and be made a part of the Code of Ordinances of the City
255 of Gainesville, Florida, and that the sections and paragraphs of this Ordinance may be
256 renumbered or relettered in order to accomplish such intentions.

257 **Section 4.** If any word, phrase, clause, paragraph, section or provision of this ordinance
258 or the application hereof to any person or circumstance is held invalid or unconstitutional, such
259 finding shall not affect the other provisions or application of the ordinance which can be given
260 effect without the invalid or unconstitutional provisions or application, and to this end the
261 provisions of this ordinance are declared severable.

262 **Section 5.** All ordinances or parts of ordinances, in conflict herewith are to the extent of
263 such conflict hereby repealed.

264 **Section 6.** This ordinance shall become effective immediately upon adoption.

265
266 **PASSED AND ADOPTED THIS _____ DAY OF _____, 2022.**

267
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269 _____
270 LAUREN POE
271 MAYOR

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274 ATTEST: Approved as to form and legality
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279 _____ DANIEL M. NEE
280 OMICHELE D. GAINEY INTERIM CITY ATTORNEY
281 CITY CLERK

282 This ordinance passed on first reading this _____ day of _____, 2022.

283
284 This ordinance passed on second reading this _____ day of _____, 2022